

**Court No. - 85**

**Case :-** CRIMINAL APPEAL No. - 11440 of 2023

**Appellant :-** Battan Pal

**Respondent :-** State of U.P. and Another

**Counsel for Appellant :-** Tarun Jha

**Counsel for Respondent :-** G.A.,Dev Prakash Sharma,Priyanka Devi

**Hon'ble Mayank Kumar Jain,J.**

Supplementary affidavit filed on behalf of appellant is taken on record.

Heard learned counsel for the appellant, Ms. Priyanka Devi, learned counsel for the informant/opposite party no.2, learned Additional Government Advocate for the State of U.P. and perused the record.

This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant with the prayer to set aside the anticipatory bail rejection order dated 18.10..2023 passed by learned Special Judge (SC/ST) Act, Jalaun at Orai in Anticipatory Bail Application No. 1780 of 2023, arising out of Case Crime No. 166 of 2016, under Sections 323, 325, 504, 506 of I.P.C. and Section 3 (1) (10) of S.C./S.T. Act , Police Station Ata, District Jalaun.

As per the version of prosecution, on 22.07.2016 at around 2 pm, informant had gone to graze his animal in the field. The goat of the informant was grazing grass in the field of one Lakhanpal at the same time appellant came there and made protest and asked the informant that how his animal entered in the field of Lakhanpal. When appellant told him that the field did not belong to him. He became annoyed. Appellant who was having an axe in his hand,

assaulted the informant with the handle of axe over his head due to which he sustained injuries.

It is submitted by the learned counsel for the appellant that appellant is innocent and he has been falsely implicated in the present case due to village party-bandi. Appellant is aged around 78 years and is suffering from several diseases. It is further contended that without proper investigation, charge sheet was submitted against the appellant. Thereafter, on 13.10.2016 trial court has taken cognizance on it and issued bailable warrant against the appellant. Appellant approached this Court by filing an application under Section 482 Cr.P.C. to quash the proceedings in which this court has directed that no coercive action shall be taken against the appellant. Learned trial court vide order dated 23.08.2023 issued non-bailable warrant against the appellant. The eye witnesses are the interested witnesses as they are closely associated with the informant. It is also submitted that on 30.07.2016 when informant was asked to undergo for medical examination, he refused which indicates that no such occurrence took place. The appellant is having no criminal history.

Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for anticipatory bail contending that proceedings of trial court were not stayed by this Court on the application moved on behalf of appellant under Section 482 Cr.P.C. It was the duty of the appellant to appear before the trial Court and to co-operate in trial but he did not appear before the court. Therefore, N.B.W. were issued against him. The injured was medically examined on the very next day of incident and as per medical report, injured has received injury on top of head over right frontal prominence. Hence, the appeal is liable to be dismissed.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and and keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment,, I do not find it fit case for anticipatory bail.

Since the trial court has passed the impugned order after appreciating the evidence available on record, there is no occasion to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

Accordingly, the criminal appeal is **dismissed**.

**Order Date :- 14.12.2023**

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